

REMARKS/ARGUMENTS

Applicants respectfully request reconsideration of this application in view of the present amendments and the following remarks. By this amendment, claims 19, 78 and 83 are amended. Upon entry of this amendment claims 19 and 73-88 remain pending in this case, with claims 19, 78 and 83 being independent claims. It is believed that no additional fees are due for the consideration of this paper. However, if additional fees are due, the Commissioner is authorized to charge such fees to deposit account number 13-2855.

Claim Amendments

It is respectfully submitted that the claims as amended above are supported by the application as originally filed in the Patent Office on January 26, 2004, that the amended claims satisfy the written description requirement and the other requirements of 35 U.S.C. § 112, and that no new matter is being added. Claims 19, 78 and 83 are amended to more clearly recite that the biasing element and bias adjustment mechanism (claim 19), and the second spring and release button (claims 78 and 83) do not directly engage the cords of the cordless blinds. These amendments are supported by the application as originally filed at least at Figs. 16-18 and the accompanying text at paragraphs [0089] - [0092] wherein the release button 270, brake pad 276 and spring 278 do not directly engage the lift cords of the cordless blind. Applicants respectfully submit that the amendments to claims 19, 78 and 83 do not present new matter and do not raise new issues, and respectfully requests entry of the present amendments and consideration of the claims as amended.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 19, 78 and 83 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,029,734 (hereinafter, "the Wang '734 patent"). Applicants respectfully request reconsideration in view of the amendments to the claims and the following remarks, and respectfully submit that independent claims 19, 78 and 83 and the claims depending therefrom are not anticipated or rendered obvious by the Wang '734 patent for at least the following reasons.

Applicants respectfully submit that the Wang '734 patent does not disclose or suggest a biasing member or spring engaging a drive actuator or a component of a drive actuator to

provide a force, frictional or otherwise, to maintain a static position of the drive actuator without directly engaging the cords of the cordless blind as recited in the claims as amended. The Wang '734 patent teaches a blind having spring retrieving units 33 driving winding wheels 32 to wind up pull cords 40 when a bottom plate 22 is lifted, and having a locating set 50 disposed in the bottom plate 22 engaging the pull cords 40 to maintain the bottom plate 22 in a particular position and to maintain the spring retrieving units 33 in a static position. In particular, the retaining member 52 identified in the final Office action as corresponding to the bias adjustment mechanism recited in the claims is urged by the spring 53 to apply a clamping force and frictional resistance to the pull cords 40A and 40B. (*See* Wang '734 patent, Figs. 3-5 and accompanying text at col. 2, line 59 through col. 3, line 34). Consequently, the locating set 50 directly engages the cords 40A and 40B instead of engaging components of either the spring retrieving units 33 or the winding wheels 32 as recited for the biasing elements and second springs recited in claims 19, 78 and 83.

Further, the Wang '734 patent does not provide any suggestion or motivation for modifying the blind to have the locating set 50 engage the spring retrieving units 33 or the winding wheels 33. First, the Wang '734 patent does not suggest configuring the components of the locating set 50 to engage any component of the blinds other than the cords 40. Moreover, the spring retrieving units 33 and the winding wheels 32 are disposed in the frame 10, while the locating set 50 is disposed in the bottom plate 22. The Wang '734 patent does not suggest locating these components together in one or the other of the frame 10 and the bottom plate 22, let alone disposing the locating set 50 proximate the spring retrieving units 33 and/or the winding wheels 32 such that the locating set 50 could engage those components. For at least these reasons, the Wang '734 patent neither anticipates nor renders obvious claims 19, 78 and 83 or the claims depending therefrom, and withdrawal of the rejection of the claims in view of the Wang '734 patent is respectfully requested.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 19 and 73- 87 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,024,154 (hereinafter, "the Wang '154 patent") in view of U.S. Patent No. 4,023,277 (Fizer), and claim 88 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Wang '154 patent in view of U.S. Patent No. 5,799,715 (Biro et al.).

Applicants respectfully submit that pending claims 19, 73-88 are not properly rejectable over the applied references for at least the following reasons.

Applicants respectfully submit that the Office action and the Examiner's Response to the applicants' previously-submitted arguments still fail to establish a *prima facie* case of obviousness for the combination of the Wang '154 and Fizer patents. In order to establish a *prima facie* case of obviousness, there must be actual evidence of a suggestion to modify a prior art reference or to combine two prior art references, and the suggestion to combine or modify the prior art must be clear and particular. See, for example, *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999), where the Court of Appeals for the Federal Circuit stated:

We have noted that evidence of a suggestion, teaching, or motivation to combine may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved...

* * *

The range of sources available, however, does not diminish the requirement for **actual evidence**. That is, the showing must be **clear and particular**. Broad conclusory statements regarding the teaching of multiple references, standing alone, are **not 'evidence.'** (emphasis added, citations omitted).

The mere fact that references can be modified is not sufficient to establish a *prima facie* case of obviousness. See Section 2143.01 of the M.P.E.P., which states: "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)" (emphasis original).

The Office action still fails to provide or to cite to any actual evidence of a motivation or desire by a person skilled in the art to arrive at the proposed combination of the references. As with the previous Office action, the final Office action states in conclusory fashion that "[i]t would have been obvious to replace the toothed break of [the] Wang ['154 patent] with the friction brake of Fizer so as to permit smooth winding and unwinding." See Final Office Action, page 2, third last paragraph. For the reasons discussed in applicants' previous response, the Wang '154 patent does not disclose or suggest that the Venetian blind does not

wind and unwind “smoothly,” whatever that term means in the area of blind lifting mechanisms. Moreover, Fizer provides no teaching or suggestion that the disclosed release mechanism facilitates “smooth” winding and unwinding of the tape measure, let alone “smoother” winding and unwinding than the mechanism of the Wang ‘154 patent. Further, the Wang ‘154 patent does not provide a suggestion or motivation for replacing the meshing gear teeth with other engagement mechanisms in the locating member 50 to provide a selectively variable application of a biasing force or to maintain the winding members 30 in static positions using a frictional force as recited in the claims. The only suggestion for providing a selectively variable application of a biasing force or applying a frictional force in a cordless blind is provided by the applicants own disclosure, the use of which constitutes the use of impermissible hindsight analysis.

In the Response to Arguments, the Examiner asserts that Fizer is analogous prior art because it provides a release brake for a spring motor driven device. However, applicants respectfully submit that a person working in the area of cordless blinds familiar with the locating member 50 of the Wang ‘154 patent would not look to the tape measure art for alternative mechanisms for engaging the components of the winding members 30. Tape measures of the type shown in Fizer typically have locking mechanisms that directly engage the tape as opposed to the spool. Therefore, the person skilled in the cordless blind art desiring to modify the locating member 50 would not expect to find the type of release mechanism taught by Fizer in the tape measure art.

The Examiner makes further assertions regarding “reasons that would motivate the search and finding of Fizer in addition to rendering braking smooth.” Unfortunately, as with the alleged “smoothing” motivation, the assertions merely identify results that may be observed from the proposed combination as opposed to providing actual evidence of suggestions or motivations for making the proposed combination having the required factual support. The Examiner points out that Fizer’s release mechanism provides infinite break positions as opposed to the spaced positions provided by the mechanism of the Wang ‘154 patent. This is an accurate factual statement, but the Examiner does not assert and provides no factual support for a suggestion that providing infinite break positions in a cordless blind is desirable such that a person skilled in the art would modify the Wang ‘154 patent in the

manner proposed. The Examiner also states that Fizer's release mechanism allows the bottom rail to be pulled down without releasing the brake. While this may be true, the Examiner points to no factual support in the Wang '154 patent, in the Fizer patent or in any other source for a suggestion or motivation for substituting Fizer's mechanism for the mechanism of the Wang '154 patent. Because the final Office action fails to identify a legally sufficient suggestion or motivation for combining the Wang '154 and Fizer patents in the manner proposed, applicants respectfully submit that the final Office action does not establish a *prima facie* case of obviousness, and respectfully request withdrawal of the rejections of claims 19 and 73-88 in view of the Wang '154 and Fizer patents.

Regarding the rejection of claim 88 in view of the proposed combination of the Wang '154 and Biro et al. patents, Biro et al. do not teach or suggest the limitation missing from the Wang '154 patent of providing a frictional force to maintain the position of the retaining portions 322A and 322B. Therefore, for at least the reasons discussed above, the combination of the Wang '154 and Biro et al. patents does not render obvious either claim 88 or claim 83 from which it depends.

CONCLUSION

Entry and consideration of the foregoing amendments as improving the form of the application are solicited. The amendments have the effect of narrowing the issues for consideration by Examiner Johnson, or on appeal, and were not earlier presented because, prior to the final Office action and Examiner Johnson's comments therewith, these amendments were not felt necessary to obtain allowance.

For at least the foregoing reasons, reconsideration and withdrawal of the rejection of the claims and allowance of the currently pending claims are respectfully requested. Should the Examiner wish to discuss the foregoing or any matter of form in an effort to advance this application towards allowance, he is urged to telephone the undersigned at the indicated number.

Dated: April 10, 2007

Respectfully submitted,

By: /Scott E. Baxendale/

Scott E. Baxendale

Registration No.: 41,605

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorneys for Applicants